

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the matter of)	
)	
Implementation of the Pay Phone)	
Reclassification and Compensation)	CC Docket No. 96-128
Provisions of the)	
Telecommunications Act of 1996)	
)	
RBOC/GTE/SNET Payphone Coalition)	NSD File No. L-99-34
Petition for Reconsideration)	

Chernow Communications, Inc. d/b/a C-COM
Reply Comments to Petitions for Reconsideration and Clarification

Chernow Communications, Inc. d/b/a C-COM ("C-COM"), pursuant to the Federal Communications Commission's ("Commission") public notice released on August 20, 2001,¹ respectfully submits its reply comments opposing the petitions for clarification and reconsideration filed by AT&T Corp. ("AT&T") and WorldCom, Inc. ("WorldCom"). A resounding objection to the AT&T and WorldCom petitions has been given by the industry in the comments filed on October 9, 2001. C-COM files its brief reply comments to join in the objection and to confirm the technical feasibility of a first switch-based carrier to determine that a call is completed to an end user. C-COM urges the Commission to reject AT&T's and WorldCom's petitions in an expeditious manner, to give the industry

¹ *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, NSD File No. L-99-34 (rel. August 20, 2001).

the opportunity to resolve some of the difficulties presented by the new rules,² and to extend the compliance date of the new rules until January 1, 2002.

C-COM provides all forms of long distance telecommunications, including, but not limited to, 1+ services, toll-free services, postpaid calling card services, and prepaid calling card services. A significant focus of C-COM's business is the provision of calling card services to students at colleges and universities throughout the country. C-COM serves students at 492 schools throughout 40 states. Due to the calling patterns of students, approximately 28 percent of initiated calls are not completed. Many of these calls are originated from payphones. Under AT&T's and WorldCom's proposals, C-COM would be required to pay compensation for all of these calls, even though C-COM cannot recoup the cost from its customers for such incomplete calls. If C-COM increases the price of its completed calls to recoup the cost of incomplete calls, C-COM will not be able to compete with carriers, such as AT&T and WorldCom, that do not experience such additional costs. Switch-based resellers ("SBR") will be placed at a significant disadvantage under the proposals advocated by AT&T and WorldCom. These proposals would result in harsh financial consequences to C-COM placing its business in jeopardy. The ultimate losers will be consumers who will no longer have such an extensive choice of carriers and competitive pricing.

² *Implementation of the Payphone Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, NSD File No. L-99-34, Second Order on Reconsideration, FCC 91-109 (rel. April 5, 2001) ("Second Order on Reconsideration").

An overwhelming majority of parties object to the petitions of AT&T and WorldCom. Parties highlight the numerous legal obstacles to the AT&T and WorldCom proposals. One hurdle that the AT&T and WorldCom petitions cannot overcome is the blatant *violation* of the plain language of section 276 of the Act that would result under their proposals. Section 276(b)(1)(A) specifically states that PSPs shall be “fairly compensated for each and every *completed* intrastate and interstate call”³ An additional obstacle is the unwarranted, oppressive discrimination that would result against SBRs in violation of sections 201 and 202 of the Act. The discriminatory financial burden placed on SBRs may unfairly threaten the viability of the SBR industry. The financial burden, if any, of the new rules should be equitably distributed among all parties, first switch-based carriers, SBRs and PSPs.

It is unfair and unjust to place the entire burden of the new rules on SBRs. Moreover, it is not necessary. The current technology and/or systems in the industry permit compliance with the new rules. As noted by the Joint Commenters,⁴ call signaling information, including answer supervision (“AS”), can be passed through to the first switch-based carrier, such as AT&T or WorldCom, after the call has been completed at the distant end. At the present time, C-COM and other SBRs pass AS to the first switch-based carriers immediately after receipt of a toll free call. C-COM and other SBRs can program

³ 47 U.S.C. §276(b)(1)(A) (emphasis added).

⁴ Joint Comments of CommuniGroup of K.C., Inc., CommuniGroup of Jackson, Inc., NTS Communications, Inc., Transtel Communications, Inc., Tel America of Salt Lake City, Inc., National Network Corporation and Extelcom d/b/a Express Tel. at 10-12.

their switching equipment to delay sending AS until after the call is answered at the distant end, enabling AT&T and WorldCom to properly assess which payphone originated calls are actually completed. Should the call not be answered, at the distant end, after a specified number of rings (typically 10 rings), C-COM would drop the incoming call without providing AS. Since many of the toll free calls are of the calling card variety, additional digits need to be passed to the SBR by the call originator. The first switch-based carriers, such as AT&T and WorldCom, need to keep the voice path open prior to receiving AS to permit the passing of information between the call originator and the SBR. Virtually all tandem switches, such as those used by AT&T and WorldCom, have this capability. Once the call is completed, an "off hook" signal will return to the first switch-based carrier notifying the first switch-based carrier that the call is completed. In light of this option, and the other options presented by the commenters, it would be arbitrary to adopt the proposals of AT&T and WorldCom for which no real evidence was presented and, more importantly, violate sections 201, 202, and 276 of the Act.

C-COM supports WorldCom's request that the Commission reconsider the deadline for compliance with the new rules.⁵ As stated in the Commission's public notice, carriers must comply with the new rules by November 23, 2001. Since payphone compensation is tracked, calculated and paid on a quarterly basis, November 23rd presents an illogical deadline and imposes an unnecessary

⁵ WorldCom Comments at 13.

hardship on the industry. Carriers responsible for tracking payphone calls up to November 23rd will still be required to expend resources to track and pay compensation for fourth quarter 2001. Other carriers will be required to expend additional resources to track and pay compensation for the same fourth quarter. The November 23rd compliance date will result in duplicate efforts and wasteful use of resources. A compliance date at the beginning of a quarter is reasonable, and should be adopted.

C-COM respectfully requests that the Commission reject any request to redefine a payphone call that requires compensation to Payphone Service Providers to include calls that are *not* completed and further requests that the Commission permit carriers to determine on a case-by-case basis how compliance with the new rules should be accomplished.

Respectfully submitted,

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